

DARLENE A. DORNAN, Court Counsel (State Bar No. 182228)

Superior Court of California, County of San Diego

By CHERYL L. BRIERTON, Litigation Attorney (State Bar No. 108242)

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Attorneys for Defendant, The Honorable William McAdam, Judge of the Superior Court of
California, County of San Diego

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LANTZ E. ARNELL,

Plaintiff,

v.

JACK LIEB ESQ. AND ASSOC., JUDGE
W. MCADAM, ET AL.,

Defendants.

Case No.: 08-CV-00441 WQH (JMA)

DEFENDANT JUDGE MCADAM'S NOTICE
OF MOTION TO DISMISS WITH
PREJUDICE

**[No Oral Argument Unless Requested By
The Court]**

Date: June 16, 2008

Time: 11 a.m.

Crtrm: 4 (4th Floor)

Judge: The Honorable William Q. Hayes

TO PLAINTIFF LANTZ E. ARNELL IN PRO SE:

PLEASE TAKE NOTICE that on June 16, 2008, at 11:00 a.m., in Courtroom 4, on
the fourth floor of the United States District Court for the Southern District of California,
located at 940 Front Street, San Diego, California 92101, before the Honorable William Q.
Hayes, Defendant The Honorable William McAdam, Judge of the Superior Court of
California, County of San Diego, will move to dismiss Plaintiff's Complaint pursuant to
Federal Rules of Civil Procedure ("FRCP") rules 12(b)(1), 12(b)(2), 12(b)(6), and 41(b) on
the following grounds:

1. FRCP 12(b)(1) ("lack of jurisdiction over the subject matter")--This Court
lacks jurisdiction over the subject matter of this action based upon state sovereign

immunity; and the *Rooker-Feldman* abstention doctrine, that a federal court lacks the authority to review a state court decision;

2. FRCP 12(b)(2) ("lack of jurisdiction over the person")--This Court lacks jurisdiction over Defendant based upon the principle of sovereign immunity of the State;

3. FRCP 12(b)(6) ("failure to state a claim upon which relief can be granted")--The Complaint fails to state a claim for which relief can be granted against the moving Defendant based upon the principle of judicial immunity and under the Court's inherent powers to summarily dismiss abusive pleadings. Plaintiff's Complaint is also barred by *Heck v. Humphrey*, and because Plaintiff cannot state a claim for conspiracy;

4. FRCP 41(b) ("failure of the plaintiff to prosecute or to comply with these rules or any order of the court") – Under this rule and the court's inherent power, the court should dismiss Plaintiff's claim for judge-shopping.

The Motion to Dismiss will be based on this Notice, the Memorandum of Points and Authorities filed herewith, the Request for Judicial Notice of Exhibits A-C (filed herewith), the Declaration of Cheryl L. Brierton (filed herewith), the pleadings and other papers filed herein, and on such argument that may be presented at the hearing hereon.

Respectfully submitted,

DARLENE A. DORNAN, Court Counsel
Superior Court of California, County of San Diego

DATED:

April 18, 2008

By: s/ Cheryl L. Brierton
CHERYL L. BRIERTON, Litigation Attorney
Attorney for Defendant, The Honorable William McAdam,
Judge of the Superior Court of California, County of San
Diego